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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,021	12/08/2005	Naoki Ode	450100-05119	1011

7590 11/25/2009  
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New York, NY 10151

EXAMINER
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BRYANT, DOUGLAS J.

ART UNIT	PAPER NUMBER
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2195

MAIL DATE	DELIVERY MODE
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11/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,021	<b>Applicant(s)</b> ODE, NAOKI	
	<b>Examiner</b> DOUGLAS BRYANT	<b>Art Unit</b> 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/08/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This Action is in response to application 10/560021 amendments filed July 20, 2009.
2. Claims 1-11 are pending.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The claim language in the following claims is not clearly understood:
  - i. As per claim 1, lines 3, 5, 8, 10, 14 and 17, it is not clearly indicated who performs the steps of accepting, determining, deciding, receiving a request to be notified, receiving a notice if release, and issuing a complete notice (i.e. Are these steps being performed by the resource managing means or anyone of the plurality of processing means?)
  - ii. As per claim 1, line 6, it is unclear what is the criteria for determining a conflict. How does the processing means know there is a conflict? Does the processing mean check a table of some sort?
  - iii. As per claim 1, line 8, it is unclear how the processing means decide who “should be granted permission”, Based on what criteria do the processing means make this determination?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankaranarayan et al (Sankar) US Patent 7,137,119 B1, in view of Nemirovsky et al. (Nemi) US Patent Application 2006/0218556 A1.

5. As per claim 1, Sankar teaches a resource managing method for use with a resource managing apparatus having a plurality of processing means, said resource managing method comprising the steps of:

accepting a resource acquisition request from any one of said plurality of processing means **(Col 2, lines 9-12)**;

determining whether a resource corresponding to said resource acquisition request from said one processing means conflicts with the resource to be used by another processing means **(Col 8, lines 32-37)**

deciding which of the processing means found to be in conflict with one another about resource usage should be granted permission to use the resource in question **(Col 8, lines 38-42)**;

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6. Sankar is silent to the teachings upon receipt of a request to be notified of release of said resource from the processing means not granted permission to use said resource, cataloging in a list said resource corresponding to the release notification request in conjunction with the release notification- requesting processing means;

upon receipt of a notice saying that said resource has been released from the processing means having been granted permission to use said resource, checking from said list said release notification-requesting processing means; and

issuing an acquisition complete notice saying that said resource has been acquired to said release notification-requesting processing means checked from said list in said list checking step.

7. However, Nemi teachings upon receipt of a request to be notified of release of said resource from the processing means not granted permission to use said resource, cataloging in a list said resource corresponding to the release notification request in conjunction with the release notification- requesting processing means **(Para 6, lines 13-15; It is understood that when the resource needed to satisfy the request is unavailable that some type of notification triggers the lock manager to add the request to a wait list to be notified when it is available);**

upon receipt of a notice saying that said resource has been released from the processing means having been granted permission to use said resource, checking from said list said release notification-requesting processing means **(Para 6, lines 15-17; it is understood by setting a reservation for the request that the list will be checked before permission is granted) ;** and

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issuing an acquisition complete notice saying that said resource has been acquired to said release notification-requesting processing means checked from said list in said list checking step **(Para 170, lines 3-4; Para 174)**.

8. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of Nemi into the methods of Sankar to receive requests to catalog in a list the request for resources that were in conflict and then send out notifications that the resources has been granted to the next application in the catalog list awaiting the resource. This modification would have been obvious because one of ordinary skill in the art would want system to make reservations for the application B in conflict with an application A that is already using a particular resource and to send out a notification stating that application A is complete and permission is being granted to application B to employ the available resources.

9. As per claim 2, Sankar teaches the resource managing method according to claim 1, wherein said deciding step decides whether or not to grant permission to use said resource according to a priority predetermined for each of said processing means **(Col 8, lines 40-42)**.

10. As per claim 3, Sankar teaches the resource managing method according to claim 1, wherein a function represents at least one resource needed to perform a desired process **(Col 9, lines 15-18; configurations are functions needed to perform a process)** and said accepting step accepts said resource acquisition request per function representing

wherein said determining step determines presence of conflict between resources per function **(Col 8, lines 32-37)** ;

wherein said deciding step decides whether or not to grant permission to use resources per function **(Col 9, lines 22-26)**;

wherein said list cataloging step catalogs said resources in said list per function **(Col 9, lines 27-29)**;

Nemi teaches wherein said list checking step checks said list per function **(Para 6, lines 15-17; it is understood by setting a reservation, the list will contain the function request needed by the application and it will be checked before permission is granted)**; and

wherein said notice issuing step issues said acquisition complete notice per function **(Para 170, lines 3-4; Para 174)**.

11. As per claim 4, Sankar teaches the resource managing method according to claim 3, wherein said deciding step decides whether or not to grant permission to use said resources according to a priority predetermined per function **(Col 8, lines 40-42; Col 9, lines 55-58)**.

12. As per claims 5, 9, 10, and 11, they are rejected on the same rationale as claim 1.

13. As per claim 6, it is rejected on the same rationale as claim 2.

14. As per claim 7, it is rejected on the same rationale as claim 3.

15. As per claim 8, it is rejected on the same rationale as claim 4.

### ***Response to Arguments***

16. Applicant's arguments, see page 11-14, filed July 20, 2009, with respect to the rejection(s) of claim(s) 1, 5, 9-11 under 35 U.S.C. 102 (e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art references and a different interpretation of the previously applied reference. The new reference when combined with the previous applied reference teaches the cataloging of request when there is a conflict among applications/threads that are trying to acquire the services of a particular resource that is already being occupied. The references also presents the limitation of sending out notifications requesting to be catalog (put on a wait list) in order to gain access to the resources as soon as it becomes available and sending out notifications informing that the processing has been completed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS BRYANT whose telephone number is (571)270-7707. The examiner can normally be reached on M-F 8:00-5:00pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, An Meng-ai can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/  
Supervisory Patent Examiner, Art Unit 2195

/DOUGLAS BRYANT/  
Examiner, Art Unit 2195